



May 25, 2000

Mr. Alan J. Bojorquez  
Bickerstaff, Heath, Smiley, Pollan, Kever & McDaniel, L.L.P.  
1700 Frost Bank Plaza  
816 Congress Avenue  
Austin, Texas 78701-2443

OR2000-2073

Dear Mr. Bojorquez:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 135594.

The City of Georgetown (the "city"), whom you represent, received a request for "any and all arrest records of Officer Vasquez over the last two years." You indicate that you have released most of the information responsive to the request. You claim that the remaining information, a representative sample of which you have submitted for our review, is excepted from disclosure under sections 552.101, 552.108 and 552.130 of the Government Code.<sup>1</sup> We have considered the exceptions you claim and have reviewed the submitted representative sample.

You assert that certain documents you have submitted are excepted from disclosure under section 552.101 of the Government Code in conjunction with section 58.007 of the Family Code. Juvenile law enforcement records relating to conduct that occurred on or after September 1, 1997 are confidential under section 58.007 of the Family Code. Fam. Code § 58.007(c). The relevant language of section 58.007(c), as amended by the Seventy-sixth Legislature, reads as follows:

(C) Except as provided by Subsection (d), law enforcement records and files concerning a child and information stored, by electronic means or otherwise,

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<sup>1</sup>In reaching our conclusion here, we assume that the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. See Open Records Decision Nos. 499 (1988); 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

concerning the child from which a record or file could be generated may not be disclosed to the public and shall be:

- (1) if maintained on paper or microfilm, kept separate from adult files and records;
- (2) if maintained electronically in the same computer system as records or files relating to adults, be accessible under controls that are separate and distinct from controls to access electronic data concerning adults; and
- (3) maintained on a local basis only and not sent to a central state or federal depository, except as provided by Subchapter B.

We agree that the documents labeled Exhibit C, pages 3-6 involve juvenile conduct that occurred after September 1, 1997. It does not appear that any of the exceptions in section 58.007 apply. Thus, you must withhold Exhibit C, pages 3-6, in their entirety.

You assert that the remaining submitted information is excepted from disclosure pursuant to section 552.108 of the Government Code. Section 552.108 states that information held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime is excepted from required public disclosure "if release of the information would interfere with the detection, investigation, or prosecution of crime." Gov't Code § 552.108(a)(1). You inform us that the requested information pertains to ongoing prosecutions. Therefore, we agree that the release of the information would interfere with the prosecution of crime. Thus, we conclude that most of the remaining information in Exhibit C may be withheld under section 552.108(a)(1). *See* Open Records Decision No. 216 (1978).

You correctly note, however, that the requestor is entitled to "front page" information. "Basic information about an arrested person, an arrest, or a crime" is not excepted from required public disclosure. Gov't Code § 552.108(c). Basic information is the type of information that is considered to be front page offense report information even if this information is not actually located on the front page of the offense report. *See generally Houston Chronicle Publ'g Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.--Houston [14th Dist.] 1975), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976). You have provided this office with marked documents which you have already released to the requestor in accordance with *Houston Chronicle*. *See also* Open Records Decision No. 127 (1976). However, it appears that you have not included in your release to the requestor a detailed description of the offense. *Id.* The city must release all front page offense report information to the requestor. The city may withhold from disclosure the remaining information.<sup>2</sup>

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<sup>2</sup>Since neither social security numbers nor driver's license and license plate information is "front page" information as contemplated by *Houston Chronicle*, such information may be withheld under your section 552.108 claim. Thus, we need not consider your additional claims under sections 552.101 and 552.130.

This letter ruling is limited to the particular records at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at 877/673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Department of Public Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.--Austin 1992, no writ).

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,



Carla Gay Dickson  
Assistant Attorney General  
Open Records Division

CGD/ljp

Ref: ID# 135594

Encl. Submitted documents

cc: Mr. Leonard H. Insall  
P.O. Box 1801  
Georgetown, Texas 78627  
(w/o enclosures)